

### REMARKS

Reconsideration of the present application as amended is requested. Applicants appreciate the indication of allowable subject matter in claims 46 and 47. It is noted that both claims depend from claim 41, which has been rejected under 35 U.S.C. 103. Applicants have amended claim 41 to incorporate the limitations of dependent claim 47. Incorporating the allowable subject matter of claim 47 into claim 41 should place this claim, along with its dependent claims 42-45, in condition for allowance. Claim 47 has been cancelled.

In addition, Applicants have amended claim 37, which was also rejected as obvious, to incorporate the limitations of dependent claim 46, specifically the limitations further defining the bone anchor. It is believed that incorporating the allowable subject matter of claim 46 into claim 37 places this claim and its dependent claim 38 in condition for allowance. Claim 46 has been cancelled.

Claims 54-59 were rejected under 35 U.S.C. §112 as failing to comply with the written description requirement. It was specifically asserted that claim 54 contains new matter in its recitation of the dynamic stabilization system permitting full natural rotation of the motion segment in the A/P plane in both directions. Applicants have amended claim 54 to substitute language that is consistent with the specification, and particularly at Paras. [0067-0068]. Paragraph [0067] identifies the goal of the claimed method to "emulate the normal movement of the motion segment as accurately as possible," and associates that normal movement to rotation in the A/P plane. Paragraph [0068] explains that the present invention achieves "more normal loading patterns during flexion and extension." Thus, claim 54 as amended is fully supported by the specification, rendering the rejection under Section 112 moot.

Claim 54 was not subject to a prior art rejection and it is believed that none of the art of record discloses the method steps recited in this claim, as amended. It is therefore believed that claim 54 and its dependent claims 55-59 are in condition for allowance.

Claims 52 and 53 were rejected under 35 U.S.C. §103. Applicants have cancelled these claims without prejudice to consideration in a continuation application. The rejection of these claims is now moot.

Applicants have amended the claims to accept the allowable subject matter noted in the Final Office Action. No new claim limitations have been introduced that would require further searching and/or examination. It is therefore believed that the present application, including claims 37, 38, 41-45 and 54-59, is in condition for allowance. Action toward that end is requested.

Respectfully Submitted,

/Michael D. Beck

Maginot, Moore & Beck, LLP  
Chase Tower  
111 Monument Circle, Suite 3250  
Indianapolis, Indiana 46204-5109  
(317) 638-2922

Michael D. Beck  
Attorney for Applicants  
Registration No. 32,722